

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
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2005 FEB 24 P 2:06
U.S. DISTRICT COURT
DISTRICT OF MASS

RODNEY G. SMITH, EXECUTIVE DIRECTOR
Of the TEAMSTERS UNION 25 HEALTH
SERVICES & INSURANCE PLAN,
Plaintiff,

V.

MARK EQUIPMENT, CORP.,
Defendant,

and

EASTERN BANK,
Trustee.

Civil Action No.
05-10008-RGS

APPLICATION TO CLERK FOR ENTRY OF DEFAULT

The Plaintiff, Rodney G. Smith, in the above-captioned matter hereby requests pursuant to Rule 55(a) of the Federal Rules of Civil Procedure that the clerk enter Default against the Defendant, Mark Equipment Corporation, for failure to plead, answer or otherwise defend the action as required by said Rules, as shown on the attached Affidavit "A."

For the Plaintiff,
RODNEY G. SMITH,
EXECUTIVE DIRECTOR,
TEAMSTERS UNION 25 HEALTH
SERVICES & INSURANCE PLAN,
By his attorneys,



Matthew E. Dwyer, BBO# 139840
Brian M. Maser, BBO# 655667
Dwyer, Duddy & Facklam, P.C.
One Center Plaza, Suite 360
Boston, MA 02108
(617) 723-9777

Dated: February 23, 2005
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Of the TEAMSTERS UNION 25 HEALTH
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AFFIDAVIT "A"

I, Brian M. Maser, state as follows:

1. My name is Brian M. Maser. I am associated with the law firm of Dwyer, Duddy and Facklam, which at all times material herein has been counsel of record to the Plaintiff in the above-captioned action.
2. An examination of the Court's on-line and our office file in the action shows that the Defendant was served with a copy of the complaint on January 31, 2005 by in-hand delivery. A copy of the Return of Service is attached hereto for the Clerk's convenience.
3. More than twenty (20) days have elapsed since the date on which Defendant was served with the summons and a copy of the complaint, excluding the date thereof.
4. The Defendant has failed to answer or otherwise defend Plaintiff's complaint, or serve a copy of any answer or other defense which it might have upon Dwyer, Duddy and Facklam, attorneys of record for the Plaintiff.
5. This affidavit is executed in accordance with Rule 55(a) of the Federal Rules of Civil Procedure for the purpose of enabling Plaintiff to obtain an entry of default against the Defendant for its failure to answer or otherwise defend this action.

Dated: 2-23-05

B. M. Maser
Brian M. Maser

On this 23rd day of February, 2005, Brian M. Maser, who is personally known to me, appeared and swore to me that the contents of the document are truthful and accurate to the best of his knowledge and belief.

Dated: 2/23/05

Jacqueline Maser
Notary Public

2/28/08
My Commission expires:

UNITED STATES DISTRICT COURT

District of
MassachusettsRodney G. Smith, Executive Director
of the Teamsters Union 25 Health
Services & Insurance PlanMark Equipment, Corp.,
and
Eastern Bank

SUMMONS IN A CIVIL ACTION

05 - 10008 RGS

CASE NUMBER:

TO: (Name and address of Defendant)

Mark Equipment, Corp.
126 Old Page Street
Stoughton, MA 02072

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Matthew E. Dwyer, Esq.
Brian M. Maser, Esq.
Dwyer, Duddy and Facklam, P.C.
One Center Plaza, Suite 360
Boston, MA 02108

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

TOMM AMASTAS

CLERK

DATE

BY DEPUTY CLERK